

REMOTE STORAGE

COPY
OF THE
OYSTER LAW
OF LOUISIANA,

Act 52 of 1904, as Amended by Act 178 of 1906, and
Act 167 of 1908 and Act 291 of 1908,

— ISSUED BY —

Oyster Commission of Louisiana.

No. 124 St. Charles St. NEW ORLEANS, LA.

ADDRESS ALL COMMUNICATIONS TO
OYSTER COMMISSION OF LOUISIANA,

No. 124 St. Charles Street, New Orleans, La.

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1908

ACT No. 52 of 1904, as amended by Act 178 of 1906, and Act 167 of 1908, and Act 291 of 1908.

AN ACT.

To amend and re-enact Sections 5, 6, 7, 9, 10, 13, 15, 16, 17, 19, 21 and 25 of Act No. 52 of 1904, approved June 29, 1904, entitled an Act to encourage, protect, regulate and develop the oyster industry of the State of Louisiana, and to increase the revenues of the State therefrom; by recognizing and declaring the ownership of the State in and to the bottom or beds of the bodies or streams of water along the coast of the Gulf of Mexico, and the waters of the Gulf of Mexico within the jurisdiction of the State of Louisiana; by prohibiting their alienation in fee simple; by recognizing and declaring the ownership of the State in and to all oysters growing naturally thereon; by limiting the rights of the riparian proprietors to low water mark; by creating the Oyster Commission of Louisiana, providing for its organization and defining its powers and duties; by constituting said Commission a department of the State government and a political corporation invested with all necessary corporate powers; by providing for the leasing of oyster lands belonging to the State; by providing for the licensing, registration and designation of vessels employed in the oyster industry; by levying a special assessment or privilege tax on oysters produced in Louisiana waters and a police license on persons, firms, corporations and vessels engaged in the oyster industry; by providing for the manner of collecting, handling, depositing and disbursing the revenues of said Commission and the destination of its surplus revenues; by providing for the protection of the natural oyster reefs of this State and for the creation of artificial reefs; by providing such other regulations as are necessary to properly carry out the objects and purposes of this Act, by providing penalties for the violations of this Act, and the rules and regulations of the Commission; and by providing for the repeal of all laws on the same subject matter, and in conflict with the provisions of this Act.

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Jan. 1930 Howard Mem. File

SECTION 1. *Be it enacted by the General Assembly of the State of Louisiana,* That all the beds and bottoms of the rivers, bayous, lagoons, lakes, bays, sounds and inlets bordering on or connecting with the Gulf of Mexico, and that part of the Gulf of Mexico within the jurisdiction of the State of Louisiana, and all oyster and other shell fish naturally growing thereon shall be, continue and remain the property of the State of Louisiana, and shall be under the control of the Oyster Commission of Louisiana, hereinafter created, which said Commission may permit of its use by residents of the State of Louisiana, firms composed of residents of Louisiana, and Louisiana corporations, for the purpose of fishing, taking, catching, bedding and raising oysters and other shell fish, subject to the reservations and restrictions hereinafter to be imposed by this Act or hereafter to be imposed by said Oyster Commission of Louisiana. No grant, sale or conveyance of the lands forming the bottoms or beds of said bodies or streams of water, except the conditional leases and dispositions hereinafter provided for, shall hereafter be made by the Register of the State Land Office or by any other official, political corporation or person. Corporations domiciled in this State with their factories, shucking plants, and shipping depots located in this State, may enjoy the right of fishing oysters from the natural reefs and of bedding oysters on leased bedding grounds, provided such oysters are canned, shucked or packed in this State, or shipped raw, in shells, from a shipping depot in this State for consumption either in or out of this State; but no person, firm or corporation shall ship oysters out of this State for canning or packing out of this State; as it is the desire of the State to encourage the planting of shells on barren bottoms in this State, no oysters in shell shall be shipped out of this State without first getting from the Oyster Commission of Louisiana its permit so to do, and for which no charge shall be made by said Commission. Those engaged in the oyster industry under the provisions of this Act shall have the right to employ such labor and assistance, boats and vessels as they may need, whether residents or non-residents.

SEC. 2. *Be it further enacted, etc.,* That the rights of the owner or occupant of land bordering on the shores of any of the waters hereinbefore described shall extend to ordinary low water mark only, and no one shall own in fee simple the bottoms of navigable waters. All leases of bedding grounds made in pursuance of Act 110 of 1892, or Act 121 of 1896 and Act 153 of 1902, shall continue in force and effect up to their expiration, provided such lessees shall pay to the Oyster Commission

the rental provided for by this Act, and subject themselves to such further regulations as said Commission may impose. All owners of existing leases shall have the first right of renewal of their leases on such conditions as are herein provided or may hereafter be provided by the Oyster Commission of Louisiana.

SEC. 3. *Be it further enacted, etc.,* That the Governor shall appoint, by and with the consent of the Senate, five competent persons from among the qualified voters of this State, which said five (5) persons, as commissioners, shall form and constitute the "Oyster Commission of Louisiana," which said Commission is hereby created. Said Commissioners shall not be financially interested in any way in the oyster industry, and shall hold their offices for a period of four years, and until their successors are appointed and qualified. Said Commission shall be and is hereby vested with full and complete power and authority, on behalf of the State of Louisiana, to control the oyster producing territory of, and the oyster industry carried on in this State, except to such extent as its powers and discretion shall be limited by the provisions of this Act, and subsequent amendments of this Act by the State Legislature; and to enforce such rules and regulations as it may adopt, penalties are imposed for the violations of its rules, and such penalties, shall be an imprisonment of not less than one (1) day and not more than thirty (30) days in the parish prison, or a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), or both, within the discretion of the Court; and when adopted, such rules and regulations shall have the same force and effect as provisions of this Act; provided said rules and regulations are not in conflict with the provisions of this Act. Said Commissioners shall be removable by the Governor for cause, as is now provided by law.

The Commission shall permit no salaried officers or employees to be interested in the oyster industry, or to be in the employ of any person, firm or corporation engaged in the oyster business under the penalty of forfeiture of all rights sought to be acquired by said officers or employees.

SEC. 4. *Be it further enacted, etc.,* That the said Commission shall in addition to the powers herein conferred, be constituted as a Department of the State Government for the purpose of management of the State's oyster fields and water bottoms, a body politic or political corporation invested with all the powers inherent in such corporations; it shall have the author-

ity to sue and be sued under the style "Oyster Commission of Louisiana," and all process against said corporation shall be served on the President or Secretary of said Commission, and all suits in its behalf shall be brought by its President. The domicile of said Commission is hereby fixed in the City of New Orleans, where an office shall be established for the holding of its sessions, and where its archives shall be kept, and services of process shall be made upon the President or Secretary of the Commission in person. Said Commission shall have authority to buy, sell, hold, lease and hypothecate property, real, personal and mixed; to make and execute all contracts, and generally to do and perform all things necessary to carry out the objects of this Act, subject to all limitations and duties herein provided. It shall have a corporate seal and copies of all regulations of said Commission and copies of its proceedings, or leases, papers and other records certified by the Secretary, under the corporate seal, shall be received in all courts as *prima facie* evidence of the acts, documents, records and proceedings of said Commission. Said Commission shall adopt by-laws for its own government and the government of its employees; it shall adopt rules and regulations for a comprehensive control of the oyster industry. Any person in interest who feels aggrieved by any such rule or regulation shall have the right to test the legality, justice or reasonableness of same in the courts. It shall keep a record of its proceedings, which shall be published after each meeting in a journal published daily in the City of New Orleans, to be selected by it, and its regulations and ordinances shall go into effect ten days after promulgation. It shall be the duty of the Commission, at each regular session, to examine all accounts and operations of the Commission, and determine what work shall be undertaken. It shall improve, enlarge and protect the natural oyster reefs of this State as its means permit; said Commission shall assist in protecting the lessees of private bedding grounds in the enjoyment of their rights, and it shall make to each session of the General Assembly a report of the condition of the oyster industry, and the oyster territory belonging to the State and recommendations for the development of the industry and the proper protection of the rights of the State.

SEC. 5. *Be it further enacted, etc.,* That the Commissioners shall convene and hold their first meeting in the City of New Orleans on the 2nd day of January, 1905; and the Commissioners appointed under the provisions of Act 153 of 1902 shall continue in office and discharge all of the duties imposed

by this Act upon the Commissioners until said date. A majority of said Commissioners shall constitute a quorum to do business; they shall organize by electing one of their number president; they shall appoint a secretary, who shall hold office during the pleasure of the Commission and whose salary shall not exceed the sum of eighteen hundred dollars (\$1800.00) per annum, and who shall devote his time exclusively to the work of said Commission, and whose office shall be opened to the public daily from 9 a. m. to 5 p. m. Said Commission shall designate the time of holding its regular sessions, and may be convened at any time upon the call of its president or upon the call of two of the Commissioners. In case of the death or resignation of the president, the secretary shall call the Commission together to fill the vacancy, and in case of the absence, inability or failure to act of the president, the Commission shall appoint one of its number president *pro tem.*, who shall perform all the duties of the president.

In case of neglect of duty by any Commissioner, or his failure, without good cause, to attend regular meetings for three times successively, it shall be the duty of the Governor, on the request of the Commission, or any person making proof of such neglect, to remove such Commissioner and appoint his successor for the unexpired term. The Commissioners, except the president, shall each receive a salary of ten dollars (\$10.00) per diem, and actual traveling expenses, when in actual attendance on, coming to, or returning from the sessions of said Commission, which amount shall be paid out of the funds of the Commission on the warrant of the president, signed by the secretary; but in no year shall the aggregate sum expended by the Commission for per diem and traveling expenses together exceed the sum of two thousand dollars (\$2000.00). The president shall receive a salary of two thousand five hundred dollars (\$2500.00) per annum, and traveling expenses, and this shall not be charged against the two thousand dollars (\$2000.00) provided for per diem and traveling expenses hereinabove set forth. In addition to the sum of two thousand dollars (\$2000.00) provided for herein for per diem and traveling expenses of the Commissioners at meetings, the Commission shall be further authorized to expend a sum not exceeding five hundred dollars (\$500.00) annually in defraying the traveling expenses of members of the Commission, when engaged on business of the Commission, authorized by the Commission.

SEC. 6. *Be it further enacted, etc.,* That the said Commission shall have authority to employ an attorney at a salary not to

exceed twelve hundred dollars (\$1200.00) per annum; that it shall elect a Chief Inspector at a salary of one thousand dollars (\$1000.00) per annum and who may, in addition, receive such a percentage of the license fees, tax and rents collected as the Commission may determine; provided his total annual compensation shall not exceed the sum of two thousand dollars (\$2000.00).

Said Commission shall elect a Civil Engineer and Surveyor, to be known as the Chief Surveyor, whose compensation to be fixed by the Commissioners annually shall not exceed two thousand five hundred dollars (\$2500.00) per annum, and whose service shall be devoted exclusively to the work of the Commission. The Commissioners shall appoint such deputy surveyors as may be necessary, which said deputies shall survey the bedding grounds of applicants and shall receive for such service, such compensation, payable by the applicant, as the Commission may determine. Said Commission shall have authority to employ such Deputy Inspectors, Collectors, Patrolmen and other employees, at salaries to be fixed by said Commission, as may be necessary to regulate the oyster industry and carry into effect the provisions of this Act and the rules and regulations of the Commission. All employees and officers of the Commission may be removed by the Commission at any time, and may be suspended by the President for cause pending a meeting of the said Commission. The President shall be the chief executive officer of the Commission and shall be responsible for the execution of all orders and regulations of the Commission, and during the recess of the Commission, shall have authority over, superintendence, supervision, control and direction of all officers and employees of the Commission.

SEC. 7. *Be it further enacted, etc.,* That all funds of the Oyster Commission of Louisiana shall be deposited with the State Treasurer to the credit of the "Oyster Commission of Louisiana," and all warrants drawn thereon by the President, attested by the Secretary, and seal of said Commission, shall specify the indebtedness, said warrants are intended to liquidate, in whole or part, and said funds shall not be drawn from the treasury except on the warrant of the State Auditor of Public Accounts which he shall issue in exchange for the warrants of said Commission. The Commission shall, on the first day of July of each and every year, draw its warrant in favor of the State Treasurer for such surplus of funds as the books of said Commission show to exist after providing for

the payment of all obligations incurred to said date. The said Commission in determining its outstanding obligations as herein provided, shall reimburse each parish of this State for such criminal expenses as such parish may incur, in the criminal prosecution and confinement of violators of the provisions of this law and the rules and regulations of the Commission, said amount to be based upon the certificate of the District Judge. The said surplus shall annually be credited by the State Treasurer and State Auditor, one-half to the public school fund, and one-half to a fund for the purpose of improving the public roads of the State. The fiscal year shall begin July first and end June thirtieth. The Auditor shall not, in any fiscal year warrant on said funds for more than fifty thousand dollars (\$50,000.00), and all funds in excess of fifty thousand dollars (\$50,000.00) shall be credited to the school and road fund as hereinbefore provided, and the sum of fifty thousand dollars (\$50,000.00) for the fiscal year ending June 30, 1909, and fifty thousand dollars (\$50,000.00) for the fiscal year ending June 30, 1910, or as much thereof as may be necessary, be and the same is hereby appropriated out of said oyster fund, to be subject to the warrant of the Oyster Commission as herein set forth, provided the said funds shall have first been collected by said Oyster Commission under the provisions of Act 52 of 1904 and Act 178 of 1906 and this Act, and placed to its credit with the State Auditor and Treasurer, and provided further that not exceeding thirty-six thousand dollars (\$36,000.00) per annum shall be used for operating expenses, and twelve thousand dollars (\$12,000.00) per annum for the purchase of boats and equipment, and two thousand dollars (\$2,000.00) to aid in closing Batiste Colette Gap in Plaquemines parish. The funds arising from all licenses, rents and other sources, inclusive of the three (3) cents privilege tax, shall be collected by, and paid to the Commission under such rules and regulations as said Commission may prescribe, and the Secretary shall deposit the same daily to the credit of said Commission in a bank in the City of New Orleans selected by the Commission, and the Commission shall remit the same monthly to the State Treasurer and settle with the State Auditor at least monthly, and all amounts so collected shall be placed to the credit of the funds of the "Oyster Commission of Louisiana" by the State Auditor and the State Treasurer, who shall pay the warrants of the Commission out of the funds to the credit of said Commission. Such privilege taxes shall be collected under the rules and regulations to be established by said Commission, and the said Commission may use its inspectors and patrol boats in effecting a collection of

said privilege taxes. No railroad, steamboat or other common carrier shall receive any oysters subject to the privilege tax herein provided for and on which the privilege tax has not been paid, without entering the tax on the bill of lading and collecting the same; and it shall be their duty to remit the amount of tax to the Secretary of the Commission. Any common carrier failing to collect said privilege tax as herein provided, and failing to remit the same monthly to the Secretary as herein provided, shall be deemed guilty of a violation of the provisions of this Act, and Act 52 of 1904, as amended by Act 178 of 1906.

Bonds for the faithful performance of their duties shall be furnished by the several officials of said Commission as follows: President in the sum of twenty-five hundred dollars (\$2500.00); Secretary in the sum of twenty-five hundred dollars (\$2500.00); Chief Inspector in the sum of fifteen hundred dollars (\$1500.00); Chief Surveyor in the sum of one thousand dollars (\$1000.00); Deputy Inspectors and Surveyors in the sum of one thousand dollars (\$1000.00) each, and the said Commission shall have the right to increase the amount of any of said bonds whenever it deems it advisable, and may pay the cost of the premium of said bonds. No one interested in the oyster industry shall be a competent surety on said bonds.

SEC. 8. *Be it further enacted, etc.,* That the said Commission shall acquire such boats, vessels and other property as may be necessary to regulate and control the oyster industry, and as soon as the funds become available for the purpose, said Commission shall establish and maintain, by means of armed vessels, the necessary patrol of the Gulf Coast with authority to use such arms as may be necessary to capture any vessel or person violating the provisions of this Act, or the rules and regulations of said Commission. All the property now owned by the Oyster Commission of Louisiana, organized under Act 153 of 1902, shall revert to and become the property of the Oyster Commission of Louisiana, organized under the provisions of this Act. The said Commission shall have the power to establish ports of entry at such points as it may deem convenient, where the privilege taxes hereinafter levied on oysters shall be paid, and shall have the power to make such rules and regulations as may be necessary to enforce the collection of the privilege taxes hereinafter levied on oysters subject thereto.

Each packer, canner, corporation, firm, commission man or dealer shall keep a record of all oysters purchased by him, with the names of the parties from whom purchased, the quantity

and the date, and shall keep an itemized account of all oysters caught by such packer, corporation, firm, dealer or other person, and all caught and taken by boats controlled by them, and shall exhibit said accounts at all times, when called upon by any Commissioner or officer so to do; and shall on the first day of each month make a return under oath to the said Commission as to the number of barrels purchased and caught during the preceding month; and the making of any false affidavit to any return shall be perjury and punishable as provided in other cases of perjury. The Commission shall be authorized to require detailed returns whenever it deems same necessary.

SEC. 9. *Be it further enacted, etc.,* That for the purpose of improving the natural oyster reefs and protecting both the natural reefs and private bedding grounds and to carry out the purposes of this Act, and as one of the conditions on which the State consents to the fishing or removal of oysters from her natural reefs, and the use or rental of her water bottoms for oyster propagating purposes, there be, and is hereby levied a special assessment, forced contribution or privilege tax of three (3) cents per barrel on each and every barrel of oysters canned or packed in the State of Louisiana or gathered from the waters of this State, whether from the natural reefs, bedding or propagating grounds, for sale or consumption.

Oysters taken from any waters for bedding purposes shall not pay this tax until again taken up for consumption or sale. The Inspectors of said Commission are authorized to enter upon any boat, or to enter any building where oysters are carried or stored and to examine such oysters at all times. No person, firm or corporation shall engage in the business of canning oysters in this State, until they shall first have procured from the "Oyster Commission of Louisiana" an annual police license, for which a charge of one hundred dollars (\$100.00) shall be made by said Commission for each steam box in use in such establishment; and no person, firm or corporation shall engage in the business of buying for resale and shipping oysters raw in shells, or packed, until they shall first have procured from said Commission an annual police license, for which a charge of twenty-five dollars (\$25.00) shall be made by said Commission when ten or more shuckers shall be employed in such establishment. When less than ten and more than five shuckers are employed, the police license shall be fifteen dollars (\$15.00) per annum; when five or less shuckers are employed, the police license shall be ten dollars (\$10.00) per annum; and when

no shuckers are employed, and oysters are handled in the shell, the police license shall be ten dollars (\$10.00) per annum when not more than ten thousand barrels of oysters are bought, shipped and sold per annum; fifteen dollars (\$15.00) per annum, where more than ten thousand, and less than fifteen thousand barrels of oysters are bought, shipped and sold per annum; and twenty dollars (\$20.00) per annum where more than twenty thousand barrels are bought, shipped and sold per annum; and when the number of barrels, bought, shipped and sold per annum shall exceed twenty thousand, the license shall be twenty-five dollars (\$25.00) per annum.

No person, firm or corporation shall begin business without first procuring at least the minimum license. At the end of the year the sworn returns, herein provided for, of oysters bought, shipped and sold by each licensee shall be computed, and such licensee shall pay an additional license shown to be due by him thereby. Vessels purchasing for resale oysters to make up a cargo shall procure a police license permitting the conduct of such business which shall be graded upon the tonnage of the boat employed, on the following basis, to-wit:

Where the boat does not exceed five tons, the police license shall be ten (\$10.00) dollars per annum; where the tonnage is more than five and not exceeding ten tons, the license shall be fifteen (\$15.00) dollars per annum; where the tonnage exceeds ten tons, the police license shall be twenty (\$20.00) dollars per annum; and every such licensed vessel shall carry on board a suitable book in which a daily record shall be made of all oysters purchased, and giving the date of purchase, the name of the seller or vessel from which purchased and the quantity of oysters purchased, which said record shall at all times be open to the inspection of the officials of said Commission and extracts therefrom shall be furnished said Commission whenever required.

All vessels engaged in the oyster industry, before beginning operation must first secure a police license from the said Commission, and for the purpose the owner, captain or agent of said vessel must present in writing an application setting forth the name and description of said vessel, the name and postoffice address of the owner and captain, the number of the crew, and such further data as said Commission shall deem necessary, and thereupon the Secretary shall register said vessel and issue the necessary license on payment of the cost thereof. All licenses shall be graduated according to the oyster carrying capacity of each boat or vessel, and shall be ascertained under the rules and regulations to be prescribed by the Commission, on

the basis of twenty (20) barrels to a ton; and all vessels or boats are required to submit to the necessary survey for their license; and a police license tax of fifty (50) cents per ton, or the fraction of a ton, is hereby levied on each vessel or boat engaged in the oyster industry in this State, when of one (1) ton or more capacity. Payment of this police license and a compliance with the provisions of the regulations shall be required of all vessels determined by the Commission to be engaged in the freighting of oysters as their exclusive cargo, when in the opinion of the Commission, police inspection of their cargo is necessary.

No boat or vessel engaged in the oyster industry shall change its name without the consent of the Commission.

These licenses shall always be subject to inspection by the officers of the Commission, and shall not be good for any vessel or owner than that for which issued, without the consent of the Commission written across the face of the license. Licenses shall be issued by the Secretary of the Commission on license blanks, which shall be furnished by the State Auditor.

The license year for all licenses shall begin September 1st of one year and end August 31st the next year. Any person, firm, corporation or vessel commencing operations without previously securing the required license shall be guilty of a violation of this Act. The license provided by this section being police licenses exacted by the State in the control of her own property, and in the protection of the oyster property of others, over which a police control is necessary, no parish or municipality shall impose any license under the authority of this Act.

SEC. 10. *Be it further enacted, etc.*, That the said Commission shall have the power to lease any water bottoms in the State of Louisiana, as described in Section 1 of this Act, and the title whereof is vested in the State of Louisiana, and is not claimed under some title by any person; and no lease of any bottoms which may be so claimed by a private individual, firm or corporation, shall be valid or have any effect, until there shall have been an adjudication by a Court of competent jurisdiction between the State and claimant as to the validity of the title of the property to be leased, provided that this shall not apply to any property that has not heretofore been alienated by the State, or the title to which is now in litigation,—and desirable for the purpose of bedding, planting and cultivating oysters. No natural reefs shall be leased, except as provided for in Section 17 of this Act. These leases can only be made to

citizens of Louisiana, Louisiana firms composed of citizens of Louisiana, and Louisiana corporation domiciled in this State. No one person or corporation shall hold or own stock in several oyster corporations leasing oyster bottoms where the aggregate value of said stock, in addition to their own holdings, would exceed the maximum value of a corporation organized to develop and own a one-thousand (1000) acre farm and its necessary equipments, factory, working capital, etc. All others are forbidden to hold these leases either as original lessees or as heirs, assigns or transferees, whether such assignment or transfer be conventional or judicial, voluntary or forced.

SEC. 11. *Be it further enacted, etc.,* That any qualified person, firm or corporation desiring to lease a part of the bottom or bed of any of the waters of this State as provided for above, shall present to the Commission a written application setting forth the name and address of the applicant, a reasonably definite description of the location and amount of the land covered by water desired, and shall pray that the application be registered, that the water bottoms be surveyed, and a plan or map of survey thereof be made, and that the water bottom described be leased to the applicant under the provisions of this Act. Thereupon the Commission shall register said application and shall order the survey, and plan made forthwith at the expense of the applicant. When applications are made by two or more persons for the same lands, they shall be leased to the applicant who first filed application for same. The Commission shall require the bodies of land leased to be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness or soft mud which would render them desirable or undesirable for the purpose of oyster cultivation.

SEC. 12. *Be it further enacted, etc.,* That as soon as the survey shall have been made, and the plan or map thereof shall have been filed with the Commission, and the cost thereof paid by the applicant, the Commission shall execute, in duplicate, a lease of the water bottoms to the applicant; one duplicate to be delivered to him, and the other with the plan of survey to be retained by the Commission, and registered in a Lease Book which shall be kept, and thereafter such lessee shall enjoy the exclusive use of said lands, and all oysters, shell and clutch grown or placed thereon shall be his exclusive property. The Commission shall require the lessee to stake off and mark the water bottom leased, by such ranges, monuments, stakes, buoys,

etc., as it may deem necessary to ascertain and locate the same, to the end that the location and limits of the land embraced in such lease be easily and accurately found and fixed. Failure on the part of the lessee to comply with the order of the Commission to this effect within the time fixed by it, shall subject such lessee in the discretion of the Commission to a fine not exceeding five dollars (\$5) per acre. All lessees shall cause the area of the leased water bottom and the name of the lessee to be shown by signs as may be determined by the Commission.

SEC. 13. *Be it further enacted, etc.,* That all leases shall be made under the provision of Section 12 of this Act, and shall begin on the day that the lease is signed, and shall continue in perpetuity under such restrictions as shall hereafter be stated in this Act. The rent shall be one dollar (\$1.00) per acre, or any fraction of an acre, per year. This rent shall be paid in advance at the time of signing the lease, up to the first day of October following, and annually thereafter, in advance on or before the first day of October of each year, whether the lease be held by the original lessee, or by an heir, assign or transferee.

No person, firm or corporation shall lease, hold or control more than one thousand acres (1000 acres) of these water lands, and any person, firm or corporation which holds or controls, or seeks, or attempts to hold or control by partnership or otherwise, more than this amount by any scheme, agreement or understanding or combination, whatsoever, shall forfeit all leases held by him or it. The Commission shall have the power to make such other stipulations in the leases as it shall deem necessary or proper. No taxes, or assessment or other licenses, other than those imposed in this Act, shall be levied or imposed on said leases or said leased lands, but the annual rental exacted and paid shall be held and considered all that can or shall be exacted by the State, or any of its subordinate political corporations or municipalities. Each tenant leasing water bottom under the provisions of this Act, shall after five (5) years from the commencement of his lease, place under cultivation yearly at least one-tenth of the water bottom leased and still remaining uncultivated.

SEC. 14. *Be it further enacted, etc.,* That said leases shall be heritable and shall be transferable, in whole or in part, provided the heirs or transferees be residents of this State or firms composed of residents of this State, or Louisiana corporations domiciled in this State. Non-residents of this State acquiring by inheritance or at forced sale, or persons already holding one thousand (1000) acres, shall be permitted to hold for twelve

months, at the end of which time, under penalty of forfeiture, they shall sell to some qualified person, firm or corporation of this State, such bedding or propagating grounds as may be so acquired by them. These leases shall also be subject to mortgage, pledge or hypothecation, and shall be subject to seizure and sale for debt, as any other property, rights and credits in this State, and this provision shall also apply to all buildings, betterments and improvements thereon. No such inheritance or transfer shall be valid or of any force or effect whatever, unless evidenced by an authentic act, judgment or proper judicial deed, registered in the office of the Commission in a book to be provided for said purpose. The Commission shall keep proper indexes, so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

The water bottoms around the Biological Station, situated in the parish of Cameron, near the mouth of the Calcasieu River, shall be reserved for experimental purposes to the following extent, to-wit: To a distance of a quarter of a mile above the said station to the full extent of the river and down the river to the Gulf to the full extent of said river and to a distance of one mile east and west of the mouth of the river, and extending to the full limit of the Gulf. Should it be subsequently found that any of the said reserve water area is unnecessary for the experimental purposes, and upon notification to that effect by the Director of said Biological Station, said unnecessary area shall be opened to rental.

SEC. 15. *Be it further enacted, etc.,* That all leases shall stipulate for the payment of the annual rent in advance, on or before the first day of October of each year, and a further stipulation that the failure of the tenant to pay the rent punctually on or before said day, or within thirty (30) days thereafter, shall, *ipso facto*, and without any demand or putting in default, terminate and cancel said lease and forfeit to the Commission all the works, improvements, betterments and oysters on the said leased water bottoms, and authorize the Commission to at once enter on said water bottoms, and take possession thereof; and such water bottoms shall then be open for lease as herein provided; and the Commission shall, ten days thereafter, enter such termination, cancellation and forfeiture on its books, and shall give such public notice thereof, and of the fact that the water bottoms are open for lease, as it shall deem proper, provided, that the Commission may, in its discretion, waive such termination, cancellation and forfeiture when the

rent due, with ten (10) per cent additional, be tendered to it within sixty (60) days after same became due. No leased water bottoms shall be forfeited for non-payment of rent under provisions of this section, unless there shall previously have been mailed, by the Commission, to the last known address of such tenant according to the books of the Commission, a thirty (30) day notice of the maturity of said rent. Whenever any leased water bottom is forfeited for non-payment of rent, and there is a *procès verbal* and plan of the survey thereof in the archives of the Commission, when such bedding ground is released by the Commission, no new survey thereof shall be made at the expense of the new lessee, but the original stakes and bounds shall be preserved by the Commission, and the new lease shall be based upon the original survey.

SEC. 16. *Be it further enacted, etc.*; That after a period of fifteen (15) years from the date when the lease was first signed, the rental shall be increased to two dollars (\$2.00) per acre per annum; and ten (10) years thereafter, and upon the expiration of each ten years thereafter, the Commission shall assess the rental value of the leased water bottoms, taking into consideration their value as oyster growing or oyster fattening water bottoms, their nearness to factories and transportation, and placing such valuation upon them in the shape of annual rental to be paid thereafter as said conditions shall warrant. Should the tenant or lessee be dissatisfied with the rental so fixed by the Commission, he shall have the right to bring his action in the District Court for the parish in which the leased land, or the greater portion thereof, is situated, against the Commission to have said valuation passed upon and made to conform to justice and equity. Both parties shall have a right of appeal from the judgment of the District Court to the Supreme Court or Court of Appeal, as the value of the subject matter in dispute shall determine. The benefits of this Act shall extend to all leases of oyster bedding grounds heretofore made by the State through the police juries and the Oyster Commission, and upon termination of such original leases, such tenants shall have the right to renew their leases under the provisions of this Act.

SEC. 17. *Be it further enacted, etc.*, That should any one within four months after any original lease is granted, claim that a natural oyster reef exists in the lands leased, and in cases east of the Mississippi River, a reef exceeding five (5) per centum of the total leased area, he shall address a written peti-

tion to the Commission, verified under oath, in which he shall concisely set forth his claim, and state the location and approximate area of the natural reef, and shall pray the Commission to cancel the lease of said reef. Each such petition shall be accompanied by a deposit of ten (\$10.00) dollars to defray the costs of examining into the matter, and no petition shall be considered unless accompanied by this deposit. The petition may include in the protest, several contemporaneous leases at the same time in the same body of water, and one deposit of ten dollars (\$10.00) shall suffice. Should the Commission determine that the charge is untrue, the ten-dollar (\$10.00) deposit made by the petitioner shall go to defray the expenses; otherwise the same shall be returned to the petitioner. Should it determine that the said leased area contains a natural reef, and in cases east of the Mississippi River, reefs exceeding five per centum of the total leased area, which should be left open for public fishing, the tenant shall pay all costs, and the said natural reef, provided, in cases east of the Mississippi River, the same exceeds five per centum of the total leased area, shall be surveyed, marked and buoyed or staked, and the lease thereof cancelled, all at the expense of the lessee. In all cases the lessee must be notified of the charge, and of the time and place of investigation, and be given full reasonable opportunity to be heard. No such petition shall be received and be acted upon unless presented within four months after the date of the lease, and after such time shall have elapsed, the lessee shall be secure against attack on such account. In every case the decision of the Commission shall be subject to appeal or review by the Judge of the District Court of the district within which the alleged natural reef is situated, who shall dispose of the matter as rapidly as possible without the aid of a jury. The decision of the District Judge shall in turn be subject to appeal, as provided by law. In the event that an application for oyster bedding grounds is filed, for areas east of the Mississippi River and upon survey of such bedding grounds it should develop that the area applied for contained natural oyster reef areas of five (5) per cent or less of the area applied for, and it should further be made to appear by the affidavit of the applicant that the natural reef could not be excluded, that he would be compelled to cancel his application unless he could lease the whole area in order to insure proper policing of his leased bedding grounds, the Oyster Commission may, if the reef cannot be excluded, and if it deems it for the best interest of the State and the oyster industry so to do, permit the including of such natural reef areas, of five (5) per centum or less, in the area

applied for, upon fixing a value to be paid by the applicant for such bedding grounds.

SEC. 18. *Be it further enacted, etc.,* That the Secretary of the Oyster Commission shall give to each licensed vessel or boat a license number, and the captain of said vessel shall at once cause (it?) to be painted on each side of the bow of such vessel or boat, in figures at least six inches long and of proportionate width, in a color distinct and different from the body color of the hull, and shall also display said number on the peak of the main sail of his vessel, and each figure on said sail shall be at least twenty-two (22) inches long, of proportional width and six inches apart; that any person, firm or corporation staking off the water bottoms of this State, or bedding oysters on the bottom of the waters of this State without previously leasing same from the Commission shall be guilty of a misdemeanor and shall pay a fine of not exceeding one hundred dollars (\$100.00) nor less than twenty-five dollars (\$25.00), or shall suffer imprisonment not exceeding six months, nor less than ten days, or both in the discretion of the Court.

SEC. 19. *Be it further enacted, etc.,* That hereafter it shall not be lawful for any person, firm or corporation to take or catch oysters on the natural reefs of this State, or to have such oysters in his possession for sale between the first day of May and the first day of September of each year, except from private leased grounds, and except as hereinafter further provided, but the possession of oysters during said closed season shall be a *prima facie* violation of this Act, and the onus shall be upon the accused to establish that the oysters were from private leased grounds. For the purpose of this Act all oysters in possession of any person, firm or corporation in this State shall be deemed to be oysters fished in Louisiana waters, and the onus shall be on the possessor of such oysters to prove that they were fished or gathered beyond the jurisdiction of the State of Louisiana. The Oyster Commission shall, however, have authority to permit the fishing, east of the western boundary of the Parish of Plaquemines, of culled oysters from the natural oyster reefs during the month of May, but only for bedding purposes and then only under such rules and regulations as said Commission may adopt.

SEC. 20. *Be it further enacted, etc.,* That all oysters taken from natural reefs of this State shall be culled upon their natural reefs as taken, and all oysters which measure less than

two and one-half (2 1-2) inches from hinge to mouth, and all dead shells shall be immediately replaced and scattered broadcast upon the natural reefs from which they are taken. No captain or person in charge of any vessel, and no canner, packer, commission man, dealer or other person shall have in his possession off the natural reefs, any natural reef oysters not culled according to law. Any excess of over five (5) per centum of dead shells and small oysters in any cargo or lot of oysters shall be considered a violation of this Act, and the Inspectors of the Commission are authorized to cause to be measured up the whole or a part of said cargo or lot of oysters at the expense of such person or vessel, to determine said percentage when found necessary; provided that the uncultured oysters in the possession of any canner, shucker or catcher shall be presumed to be natural reef oysters, and the onus shall be upon the accused to prove that they were fished from a private bedding or planting ground. The Commission may permit lessees of oyster bedding grounds located more than six miles from a known natural oyster reef, to fish for bedding purposes from the natural reefs uncultured oysters as seed, provided this shall only be done after obtaining from the Commission a permit so to do, and provided no lessee shall fish more than ten barrels of seed oysters per acre of his lease, provided further, that in the event of the destruction of the oysters on said leased bedding grounds by an unavoidable accident or natural calamity, and upon due proof of the same made to the Commission, said lessee may obtain a similar second supply of seed oysters.

SEC. 21. *Be it further enacted, etc.,* That hereafter it shall be unlawful to use a dredge, or any means or implements other than hand tongs, in removing oysters from the natural oyster reefs of this State, except in bodies of water over a general depth of ten feet, or where, in the opinion of the Commission, the body of water regardless of its depth, is declared to be too open and exposed to be ordinarily fished with hand tongs, in which event the Oyster Commission shall be authorized to issue a license for the use of scrapers or dredges, provided the applicant shall pay an annual police license fee of twenty-five dollars (\$25.00) for each sailing vessel using scrapers or dredges, and of fifty dollars (\$50.00) for each power vessel in addition to its other license, and shall give bond in favor of the Commission with good security in the sum of one thousand dollars (\$1000.00) conditioned that said implements shall not be used on the natural reefs contrary to law. The Oyster Commission is, however, granted in its discretion power to increase or diminish the depth of water in which it shall be lawful to use

scrapers or other implements in the fishing of oysters from the natural oyster reefs in the waters east of the Mississippi River, when, in its opinion, the best interests of the State and the oyster industry would in any particular locality be subserved thereby. Any one operating on the natural reefs a dredge, scraper or similar instrument in fishing oysters, contrary to the provisions of this Act, shall, upon conviction, be fined in a sum not exceeding one thousand dollars (\$1000.00), nor less than one hundred dollars (\$100.00) or imprisoned with, or without hard labor, not exceeding two years, nor less than twenty-five days, or both in the discretion of the Court.

Lessees of propagating or bedding grounds shall have the right to use in such bedding grounds any implements or appliances that they may desire. The Commission may require that such lessee may procure a permit from the Commission to use such implements, and the Commission may require of such lessees that they shall furnish a bond in favor of the Commission in the sum of one thousand dollars (\$1000.00), that such instruments or appliances shall not be used on the natural oyster reefs contrary to law. When such instruments or appliances are used exclusively on private propagating or bedding grounds, no charge shall be made for said permit.

SEC. 22. *Be it further enacted, etc.,* That any person who shall willfully take oysters or shells or cultch bedded or planted by a licensee under this Act, or any oysters deposited by such licensees making up a cargo for market, or who shall wilfully carry or attempt to carry same away without permission of the owner thereof, or who shall willfully remove, break off, destroy or otherwise injure, or alter any stake, bounds, buoys, or other designations of any natural oyster reef, or private bedding or propagating grounds, or who shall willfully injure, destroy or remove any inclosures, guards or other protections around any oyster beds, or who shall willfully move any bedding ground, stake any (or?) buoy, mark or designation placed by the Oyster Commission, shall be guilty of a violation of the provisions of this Act.

Any person who shall take a cargo or any part of a cargo of oysters in the shell out of the State on any vessel or water craft, or who shall fish, catch or gather a cargo or any part of a cargo of such oysters, with the intent to take them out of this State into any other State for any purpose, shall also be guilty of a violation of the provisions of this Act. Any one convicted of either of the two offenses denounced in this last paragraph of this

section shall be punished as provided in Section 26 of this Act, and the vessel or water craft used in the commission of the offense shall be condemned, forfeited and sold by the Court.

SEC. 23. *Be it further enacted, etc.,* That for the purpose of carrying into effect the provisions of this Act, and the rules and regulations of the Oyster Commission, commissioners, inspectors, employees of the Oyster Commission, captains and members of the crews of all vessels engaged in the oyster industry are hereby constituted peace officers with the power to arrest on view, without warrant, any one violating the provisions of the law or rules and regulations of the Commission; and it shall be the duty of such captains or crews to lend their assistance and the assistance of their vessels to any inspector of the Commission in making arrests. The Oyster Commission shall, as soon as possible, have copies of this Act printed for free distribution. It shall publish in its official journal, its rules and regulations from time to time as they are adopted, and shall annually publish its rules and regulations in pamphlet form for free distribution, and shall make an annual report to the Governor of the operations of said Commission.

SEC. 24. *Be it further enacted, etc.,* That the Oyster Commission herein constituted, shall be authorized to settle all disputes as to boundaries between lessees of bedding grounds, the proceedings to be conducted under such rules and regulations as said Commission may prescribe, reserving to each party a right to appeal to the Courts. In all operations of the Commission, the standard legal measure, in calculating the quantity of oysters, shall be used.

SEC. 25. *Be it further enacted, etc.,* That east of a projected line separating the Parishes of Lafourche and Jefferson, a natural reef shall be considered and defined as an area containing not less than a continuous area equaling a square acre of the bottom of any water where oysters are found, growing naturally at the time, or have been found and fished within the past two years, and of sufficient quantities to make their fishing profitable by hand tongs. West of said line a natural oyster reef shall be considered and defined as an area equaling not less than ten thousand (10,000) square feet of the bottom of any body of water, where oysters are found growing naturally at the time, or have been found and fished within the past two years, and of sufficient quantities to make their fishing profitable by means of hand tongs, provided no break of continuity in any

reef of less than twenty-five (25) feet shall be considered. The Oyster Commission, however, shall, in all cases, be the judge as to whether any particular bottom is or is not a natural reef, and where any particular locality shall have been declared open for lease, for oyster bedding or propagating purposes by resolution of the Oyster Commission, the correctness of the Commission's ruling shall be subject to review by the Judge of the District Court, as hereinbefore provided in Section 19. The Commission may expend not more than five thousand dollars (\$5000.00) per annum in improving and enlarging the natural oyster reefs in this State by depositing and spreading shells, breaking up bunched oysters, and the use of such other means, as said Commission may determine; and the Commission shall have authority, in working and improving said natural reefs, to use hand or power dredges, should it deem it wise to do so, and to experiment with such implements as may be used or come into use in other States, or be invented in this State.

SEC. 26. *Be it further enacted, etc.,* That all vessels with their cargoes, violating the provision of this law or the rules and regulations of the Commission shall be seized by any one authorized to make arrests under this Act, and taken into custody and delivered to the Sheriff of the parish in which the seizure is made, and shall be liable to forfeiture on appropriate proceedings being instituted by the Commission, before the District Court of that parish, and such District Court shall formulate and adopt rules to govern the proceedings in these cases. The cargo shall be at once disposed of by the Sheriff for account of whom it may concern. Should the master or any member of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on the natural reefs contrary to law, or fishing on the natural reefs out of season, or unlawfully taking oysters belonging to a lessee, such vessel shall be declared forfeited by the Court, and ordered sold, and the proceeds of sale shall be deposited with the State Treasurer to the credit of the Oyster Commission. Pending the proceeding such vessel may be released upon the owner furnishing bond with good and solvent security in double the value of the vessel, conditioned upon its being returned in good condition to the Sheriff to abide the judgment of the Court. Any person found guilty of violating this law or the rules and regulations of the Commission shall at once forfeit all licenses that he may have; any person found guilty of willfully violating the provisions of this law, shall upon conviction, unless otherwise provided herein, be fined in a sum not less than fifty dollars (\$50.00), nor more

than one thousand dollars (\$1000.00), or imprisoned, with or without hard labor, not less than thirty (30) days, nor more than two (2) years, or both, in the discretion of the Court, after a trial in the District Court in this State.

SEC. 27. *Be it further enacted, etc.*, That Act No. 153 of 1902, approved July 8th, 1902, and all laws on the same subject matter, and all laws in conflict herewith, be and they are hereby repealed, and this Act shall take effect from and after its promulgation.

INDEX.

A

PAGE

Acreage.....	13
Appeal, from rules and regulations.....	4-15-16-20-21
Application for lease.....	12
Appropriation for expenses	7
" " boats.....	7
Armed patrol.....	8
Attorney.....	5
Auditor, settlement with	7

B

Bedding-ground, application for	12-13
" " leasing of	12-13
Biological station	14
Blanks for license.....	11
Boats and vessels.....	8-10
Bonds for dredges.....	18
" " employees	8
" " vessels.....	18
" " seized vessels.....	21
Bounds, disposition as to.....	20
Buoys of bedding-ground.....	12-19
Buying for re-sale.....	10

C

Cancellation of lease.....	14
Canners, as to privilege tax	9
" " license.....	9
" must can in Louisiana	2
Cargo, sale of in seizure.....	21
Certified copies, as evidence.....	4
Change of name of vessel.....	11
Chief inspector.....	6
" surveyor.....	6
Closed season.....	17
Collections of revenues.....	7
Combinations prohibited.....	13
Commissioners, appointed.....	3
" appointed under Act 153 of 1902.....	4
" duties	4
" experiments	21
" failing to attend meetings	5
" monthly settlement.....	7
" per diem.....	5
" powers	2
" qualifications.....	2
" removal of.....	5
" right to sue	3
Common carriers and privilege tax.....	8
Complaints, as to natural reefs.....	15
Contemporaneous leases, in protests.....	16
Control of Oyster Commission.....	1

INDEX—CONTINUED.

Corporation's domicile.....	2
Criminal, expenses of parishes.....	7
Culling of oysters.....	17
Culls, percentage of.....	18
Cultivation required of lessees.....	13

D

Delinquency of rental.....	14
Deposit by contestant	16
" of collections	7
" of funds	6
Disbursements yearly.....	7
Disputes as to boundaries.....	20
Domicile of Commission.....	4
Dredging of oysters.....	18
" on leased lands.....	19
Dredge bonds.....	19
" license.....	18
" permits.....	18

E

Employees, appointment.....	6
" interest in industry.....	3
" non-resident	2
Evidence, <i>prima facie</i>	4
Experiments by Commission.....	21
Exportation of oysters.....	2

F

Failure to attend meetings	5
First applicant.....	12
Fishing on natural reefs	16
" " leased bedding-ground	17-19
Forfeiture of lease	14
" " vessel.....	21
Freighting of oysters.....	11

G

Graduation of licenses.....	9-10
Governor, report to	20

I

Improvements of bedding-grounds	13
Inspection of buildings and vessels.....	9
Inspector, Chief.....	6

J

Judicial review.....	15-16-20-21
----------------------	-------------

L

Labor, non-resident.....	2
" right to employ.....	2
Leases, according to survey.....	12
" Acts 110 of 1892, 121 of 1896, 153 of 1902.....	2
" application	12
" bedding-ground	12

INDEX—CONTINUED.

Leases, cultivation required under.....	13
“ expiration of.....	15
“ forfeiture.....	14
“ manner of making.....	11
“ perpetuity of	13
Lease register	12
“ transfer of.....	13
Legislature, report to.....	4
Lessees qualifications.....	11
License blanks.....	11
License begins when.....	11
“ by whom collected	7
“ buyer for re-sale.....	9
“ canners.....	9
“ dredgers.....	18
“ packers.....	9
“ vessel.....	10
“ year	11
Licensee, report by.....	8
Limit of leasehold area	12-13
“ “ stock holdings.....	12
“ “ taxation.....	13
Low water mark.....	2

M

Marking of leased lands	12
Maturity of rental.....	2-14
Measurements of vessels	10
Minimum canning license.....	10
Minutes, publish where.....	4
Mortgage of bedding-grounds.....	14
Municipal, no license.....	11

N

Name of vessel, change of.....	11
Natural reefs defined	20
“ “ East of Mississippi River.....	16
“ “ improvement of.....	4-20
“ “ no rights to lease.....	11-16
“ “ property of the State	2
“ “ protect against lease of.....	20
Non-residents.....	2-12
Notice of rental delinquency	14
Number on vessel.....	17

O

Obligation of lessee	13
Open and exposed waters	18
Office hours.....	5
Official journal.....	4
Officers, powers of.....	6-8-20
Operating without license.....	11
Ordinances go into effect.....	4

P

Packers.....	8
“ as to tax.....	9

INDEX — CONTINUED.

Parishes, criminal expense	7
“ no right to levy licenses.....	11
Patrol boats.....	8
Payment of rental.....	14
Penalty, failure to stake.....	13
“ omitting number on vessel	17
“ removing stakes.....	19
“ violating rules.....	3
“ violating law.....	21
Percentage, small oysters.....	18
Per diem.....	5
Perjury.....	9
Permit, dredges	18
Permit to ship oysters in shell.....	2
“ to fish uncultured oysters.....	18
Perpetuity of leases.....	13
Port of entry.....	8
Powers of President	5
“ “ Inspectors.....	9
Premium on employees' bonds.....	8
President, power of.....	5
“ salary of.....	5
“ pro-tem.....	5
Preference of first applicant.....	12
Prescription of lease contests.....	16
Privilege tax.....	9
Privilege tax, by whom collected.....	9
“ “ remittance to Treasurer.....	7
Promulgation of rules.....	4
Property of State.....	2
“ “ Commission.....	8
Protest against leases of natural reefs.....	15
Protection of natural reefs	4
Publication of Act.....	10
“ “ rules	20

Q

Qualifications of Commissioners.....	3
“ “ employees	3

R

Records kept by vessel.....	10
Register of leases.....	12
Regulations as to privilege tax.....	9
“ of Commission.....	4
Re-leasing bedding-grounds	13
Removal of Commissioners.....	5
“ “ employees.....	6
Removing stakes and bounds	19
Rental, amount of.....	13
Rent, by whom collected.....	7
“ payable in advance	14
Renewal of lease.....	3-15
Repeal of all other laws.....	22
Report to Governor.....	20
“ “ Legislature.....	4
“ by licensees.....	9
Residents may use bottom.....	2
Re-sale, vessel purchasing for.....	10

INDEX—CONTINUED.

Returns at the end of license year.....	10
Rights of lessee	12-14-19
Riparian proprietor.....	2
Roads.....	7
Rules	4

S

Salary of Attorney.....	6
“ “ Commissioners.....	5
“ “ Chief Inspector.....	6
“ “ Surveyor	6
“ “ Deputy Surveyor	6
“ “ Secretary.....	5
Sale of seized cargoes.....	21
School fund.....	7
Seal of Commission	4
Secretary	5
“ daily deposit by	7
“ as to privilege tax.....	8
Seed oysters, fishing of.....	17-18
Service of process on Commission.....	4
Shells, exportation of.....	2
Shipment out of State	2
Shucker's license	9
“ must shuck in Louisiana.....	2
Special meetings.....	5
Stakes, removal of	19
Staking bedding-grounds.....	12
Stock holdings, limits.....	12
Superintendence by President	6
Surety on bonds, qualifications	8
Surplus funds.....	7
Surveyors	6
Survey, plan of.....	12
Suspension of employees	6

T

Tenure of bottoms by non-residents	13
Termination of lease.....	14
Title of all bottoms.....	2
Transfer of leases.....	13
Traveling expense.....	5
Trust prohibition	13
Tonnage, vessel.....	10

U

Unculled oysters, permit to fish	17-18
Use of water bottoms.....	18

V

Vessel, change of name	11
“ forfeiture	21
“ license.....	10-11
“ number	17
“ purchasing for re-sale.....	10
“ records to be kept of purchases.....	10
Violations, where prosecuted.....	21

INDEX—CONTINUED.

W

Warrants, issuing of.....	7
Water bottoms cannot be sold	2
" " State property.....	2
" " lease of	12

Y

Year, lease	14
" license.....	11
" fiscal	7

154 106
33



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